

# House File 2484

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON COMMERCE,  
REGULATION AND LABOR

(SUCCESSOR TO HSB 537)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the regulation of financial and real property  
2 institutions and assets including banks, credit unions, real  
3 property loan lenders, and real property financial liability.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 HF 2484  
6 kk/es/25

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1 1 DIVISION I  
1 2 DIVISION OF BANKING  
1 3 Section 1. Section 8A.412, subsection 19, Code Supplement  
1 4 2003, is amended to read as follows:  
1 5 19. The superintendent ~~and the deputy superintendent~~ of  
1 6 the banking division of the department of commerce, all  
1 7 members of the state banking ~~board~~ council, and all employees  
1 8 of the banking division.  
1 9 Sec. 2. Section 524.201, subsection 1, Code 2003, is  
1 10 amended to read as follows:  
1 11 1. The governor shall appoint, subject to confirmation by  
1 12 the senate, a superintendent of banking. The appointee shall  
1 13 be selected solely with regard to qualification and fitness to  
1 14 discharge the duties of office, and a person shall not be  
1 15 appointed who has not had at least five years' experience as  
1 16 an executive officer in a bank ~~or in the regulation or~~  
1 17 ~~examination of banks.~~  
1 18 Sec. 3. Section 524.203, Code 2003, is amended by striking  
1 19 the section and inserting in lieu thereof the following:  
1 20 524.203 SUPERINTENDENT == VACANCY.  
1 21 If the office of superintendent shall become vacant, the  
1 22 governor may appoint an acting superintendent to complete the  
1 23 unexpired term until an appointment is made as provided in  
1 24 section 524.201.  
1 25 Sec. 4. Section 524.204, Code 2003, is amended by striking  
1 26 the section and inserting in lieu thereof the following:  
1 27 524.204 DEPUTY SUPERINTENDENT OF BANKING.  
1 28 The superintendent may appoint an employee of the division  
1 29 of banking as deputy to perform the duties of the  
1 30 superintendent during the absence or inability of the  
1 31 superintendent to act. Any deputy so appointed shall be  
1 32 removable at the pleasure of the superintendent.  
1 33 Sec. 5. Section 524.205, Code 2003, is amended to read as  
1 34 follows:  
1 35 524.205 STATE BANKING ~~BOARD~~ COUNCIL.  
2 1 1. The state banking ~~board~~ council shall ~~be composed~~  
2 2 consist of the superintendent, who shall be an ex officio  
2 3 ~~nonvoting~~ member and chairperson, and six other members,  
2 4 appointed by the governor, who shall be ~~chosen~~ appointed,  
2 5 ~~where practical~~, from various ~~sections~~ parts of the state.  
2 6 Provided, however, that in no event shall more than five  
2 7 members of such ~~board~~ council be engaged in the business of  
2 8 banking in any executive capacity. ~~In case of a vacancy in~~  
2 9 ~~the state banking board, other than one resulting from a~~  
2 10 ~~vacancy in the office of the superintendent, the governor~~  
2 11 ~~shall appoint a new member to fill such vacancy for the~~  
2 12 ~~unexpired term.~~  
2 13 2. The ~~regular term~~ terms of office of each member for  
2 14 members of the state banking council, other than the  
2 15 superintendent, shall be ~~contemporaneous with the regular term~~  
2 16 ~~of office of the superintendent as defined in subsection 2 of~~  
2 17 ~~section 524.201, and each such member shall hold office for~~  
2 18 ~~such term and until the member's successor shall have been~~  
2 19 ~~appointed four-year staggered terms. Each member shall hold~~  
2 20 ~~office for the term for which the member is appointed or until~~

2 21 a successor is appointed.

2 22 3. A member of the state banking ~~board council~~, other than  
2 23 the superintendent, shall not receive a salary but is entitled  
2 24 to reimbursement for actual expenses incurred by the member in  
2 25 connection with the member's duties. Each member of the ~~board~~  
2 26 ~~council~~ may also be eligible to receive compensation as  
2 27 provided in section 7E.6.

2 28 4. The state banking ~~board council~~ shall act ~~with the~~  
2 29 ~~superintendent~~ in an advisory capacity concerning ~~all matters~~  
2 30 ~~submitted to the council by the superintendent~~ pertaining to  
2 31 the conduct of the administration of the provisions of this  
2 32 chapter ~~and shall perform such other duties as are~~  
2 33 ~~specifically provided for by the laws of this state.~~

2 34 5. The state banking ~~board council~~ shall meet at least  
2 35 once each month calendar quarter on such date and at such  
3 1 place as the ~~state banking board council~~ may ~~designate decide,~~  
3 2 and shall meet at such other times as ~~the board may deem be~~  
3 3 ~~deemed necessary, or when called by the chairperson of the~~  
3 4 ~~board, or any two members thereof by the superintendent or a~~  
3 5 ~~majority of the council members.~~

3 6 Sec. 6. Section 524.207, subsection 1, Code Supplement  
3 7 2003, is amended to read as follows:

3 8 1. All expenses required in the discharge of the duties  
3 9 and responsibilities imposed upon the banking division of the  
3 10 department of commerce, the superintendent, and the state  
3 11 banking ~~board council~~ by the laws of this state shall be paid  
3 12 from fees provided by the laws of this state and appropriated  
3 13 by the general assembly from the general fund of the state.  
3 14 All of these fees are payable to the superintendent. The  
3 15 superintendent shall pay all the fees and other moneys  
3 16 received by the superintendent to the treasurer of state  
3 17 within the time required by section 12.10 and the fees and  
3 18 other moneys shall be deposited into the general fund of the  
3 19 state. The superintendent may keep on hand with the treasurer  
3 20 of state funds in excess of the current needs of the division  
3 21 to the extent ~~approved recommended~~ by the state banking ~~board~~  
3 22 ~~council.~~

3 23 Sec. 7. Section 524.208, Code 2003, is amended to read as  
3 24 follows:

3 25 524.208 ~~ASSISTANTS, EXAMINERS, AND OTHER EMPLOYEES.~~

3 26 The superintendent may appoint ~~assistants, examiners, and~~  
3 27 other employees as the superintendent deems necessary to the  
3 28 proper discharge of the duties imposed upon the superintendent  
3 29 by the laws of this state. Pay plans shall be established for  
3 30 employees, other than clerical, who examine the accounts and  
3 31 affairs of state banks and who examine the accounts and  
3 32 affairs of other persons, subject to supervision and  
3 33 regulation by the superintendent, which are substantially  
3 34 equivalent to those paid by the ~~Federal Deposit Insurance~~  
3 35 ~~Corporation federal deposit insurance corporation~~ and other  
4 1 federal supervisory agencies in this area of the United  
4 2 States.

4 3 Sec. 8. Section 524.209, Code Supplement 2003, is amended  
4 4 to read as follows:

4 5 524.209 EXPENSES.

4 6 The superintendent, ~~deputy superintendent, assistants,~~  
4 7 ~~examiners, and other employees~~ of the banking division shall  
4 8 be entitled to receive reimbursement for expenses incurred in  
4 9 the performance of their duties. The superintendent, and when  
4 10 specifically authorized by the superintendent, ~~the deputy~~  
4 11 ~~superintendent, assistants, examiners and other employees~~ of  
4 12 the banking division, shall be entitled to receive  
4 13 reimbursement for expenses incurred while attending  
4 14 conventions, meetings, conferences, schools, or seminars  
4 15 relating to the performance of their duties, and such expenses  
4 16 shall be paid by the treasurer of state on warrants drawn by  
4 17 the director of the department of administrative services.

4 18 Sec. 9. Section 524.210, Code 2003, is amended to read as  
4 19 follows:

4 20 524.210 INSURANCE AND SURETY BONDS.

4 21 The superintendent shall acquire good and sufficient bond  
4 22 in a company authorized to do business in this state insuring  
4 23 the faithful performance of ~~the deputy superintendent,~~  
4 24 ~~assistants, examiners, and all other employees~~ of the banking  
4 25 division and insuring against any liability which may accrue  
4 26 in the case of the loss of any property of a state bank, of a  
4 27 customer of a state bank or of any other person, in the course  
4 28 of any examination, investigation, or other function required  
4 29 or allowed by the laws of this state. The superintendent  
4 30 shall be bonded in accordance with the provisions of chapter  
4 31 64.

4 32 Sec. 10. Section 524.211, subsections 1, 2, 3, 4, 5, and  
4 33 7, Code 2003, are amended to read as follows:

4 34 1. ~~The superintendent, deputy superintendent, an assistant~~  
4 35 ~~to the superintendent, a bank examination analyst, general~~  
5 1 ~~counsel, or an examiner examiners, and other employees~~  
5 2 assigned to the bank bureau of the banking division ~~is are~~  
5 3 prohibited from obtaining a loan of money or property from a  
5 4 state-chartered bank or any person or entity affiliated with a  
5 5 state-chartered bank.

5 6 2. ~~The superintendent, deputy superintendent, finance~~  
5 7 ~~company bureau chief, general counsel, and all examiners, and~~  
5 8 ~~other employees assigned to the finance company bureau of the~~  
5 9 ~~banking division~~ are prohibited from obtaining a loan of money  
5 10 or property from a person or entity licensed pursuant to  
5 11 chapter 533A, 533D, 536, or 536A, or a person or entity  
5 12 affiliated with such licensee.

5 13 3. ~~The superintendent, deputy superintendent, an assistant~~  
5 14 ~~to the superintendent, a bank examination analyst, finance~~  
5 15 ~~company bureau chief, general counsel, or an examiner~~  
5 16 ~~examiners, and other employees~~ of the banking division, who  
5 17 ~~has have~~ credit relations with a person or entity licensed or  
5 18 registered pursuant to chapter 535B or 536C, ~~is are~~ prohibited  
5 19 from participating in decisions, oversight, and official  
5 20 review of matters concerning the regulation of the licensee or  
5 21 registrant.

5 22 4. ~~An assistant to the superintendent, a bank examination~~  
5 23 ~~analyst, or an examiner Examiners and other employees~~ assigned  
5 24 to the bank bureau of the banking division who ~~has have~~ credit  
5 25 relations with a person or entity licensed pursuant to chapter  
5 26 533A, 533D, 536, or 536A, or with a person or entity  
5 27 affiliated with such licensee, ~~is are~~ prohibited from  
5 28 participating in decisions, oversight, and official review of  
5 29 matters concerning the regulation of the licensee.

5 30 5. An employee of the banking division, other than the  
5 31 superintendent or a member of the state banking ~~board council~~,  
5 32 shall not perform any services for, and shall not be a  
5 33 shareholder, member, partner, owner, director, officer, or  
5 34 employee of, any enterprise, person, or affiliate subject to  
5 35 the regulatory purview of the banking division.

6 1 7. ~~The superintendent, deputy superintendent, or any~~  
6 2 ~~assistant or examiner examiners, or other employees~~ who ~~is are~~  
6 3 convicted of a felony while holding such position shall be  
6 4 immediately discharged from employment and shall be forever  
6 5 disqualified from holding any position in the banking  
6 6 division.

6 7 Sec. 11. Section 524.212, Code Supplement 2003, is amended  
6 8 to read as follows:

6 9 524.212 PROHIBITION AGAINST DISCLOSURE OF REGULATORY  
6 10 INFORMATION.

6 11 ~~The superintendent, deputy superintendent, assistant to the~~  
6 12 ~~superintendent, examiner members of the state banking council,~~  
6 13 ~~general counsel, examiners, or other employee employees~~ of the  
6 14 banking division shall not disclose, in any manner, to any  
6 15 person other than the person examined and those regulatory  
6 16 agencies referred to in section 524.217, subsection 2, any  
6 17 information relating specifically to the supervision and  
6 18 regulation of any state bank, persons subject to the  
6 19 provisions of chapter 533A, 533C, 536, or 536A, any affiliate  
6 20 of any state bank, or an affiliate of a person subject to the  
6 21 provisions of chapter 533A, 533C, 536, or 536A, except when  
6 22 ordered to do so by a court of competent jurisdiction and then  
6 23 only in those instances referred to in section 524.215,  
6 24 subsections 1, 2, 3, and 5.

6 25 Sec. 12. Section 524.214, subsection 1, Code 2003, is  
6 26 amended to read as follows:

6 27 1. ~~The superintendent, the deputy superintendent, and upon~~  
6 28 ~~the approval of the superintendent, any assistant or examiner~~  
6 29 ~~or other employees of the banking division~~ shall have the  
6 30 power to subpoena witnesses, to compel their attendance, to  
6 31 administer an oath, to examine any person under oath and to  
6 32 require the production of any relevant books or papers. Such  
6 33 examination may be conducted on any subject relating to the  
6 34 duties imposed upon, or powers vested in, the superintendent  
6 35 under the provisions of this chapter.

7 1 Sec. 13. Section 524.215, unnumbered paragraph 2, Code  
7 2 2003, is amended to read as follows:

7 3 ~~The superintendent, deputy superintendent, assistants, or~~  
7 4 ~~members of the state banking council, examiners, or other~~  
7 5 ~~employees of the banking division~~ shall not be subpoenaed in  
7 6 any cause or proceeding to give testimony concerning  
7 7 information relating specifically to the supervision and

7 8 regulation of any state bank or other person by the  
7 9 superintendent pursuant to the laws of this state, and the  
7 10 records of the banking division which relate specifically to  
7 11 the supervision and regulation of any such state bank or other  
7 12 such person shall not be offered in evidence in any court or  
7 13 subject to subpoena by any party except, where relevant:

7 14 Sec. 14. Section 524.216, unnumbered paragraph 1, Code  
7 15 2003, is amended to read as follows:

7 16 The superintendent shall make a report in writing annually  
7 17 to the governor in the manner and within the time required by  
7 18 chapter 7A. ~~A copy of the report shall be furnished by the~~  
7 19 ~~superintendent to each state bank.~~

7 20 Sec. 15. Section 524.217, subsection 1, paragraph a, Code  
7 21 2003, is amended to read as follows:

7 22 a. Make or cause to be made an examination of every state  
7 23 bank and trust company whenever in the superintendent's  
7 24 judgment such examination is necessary or advisable, but in no  
7 25 event less frequently than once during each two-year period by  
7 26 either the banking division or the appropriate federal banking  
7 27 agency. During the course of each examination of a state bank  
7 28 or trust company, inquiry shall be made as to its financial  
7 29 condition, the security afforded to those to whom it is  
7 30 obligated, the policies of its management, whether the  
7 31 requirements of law have been complied with in the  
7 32 administration of its affairs, and such other matters as the  
7 33 superintendent may prescribe.

7 34 Sec. 16. Section 524.218, Code 2003, is amended to read as  
7 35 follows:

8 1 524.218 REGULATION AND EXAMINATION OF SERVICES.

8 2 A state bank ~~may~~ shall not cause to be performed, by  
8 3 contract or otherwise, any bank services, of a type referred  
8 4 to in section 524.804, ~~for itself or any affiliate,~~ whether on  
8 5 or off its premises, unless ~~assurances satisfactory to the~~  
8 6 ~~superintendent are furnished to the superintendent by both the~~  
8 7 ~~state bank and the person performing such services that the~~  
8 8 ~~performance thereof the person performing such services will~~  
8 9 be subject to supervision, regulation, and examination by the  
8 10 superintendent to the same extent as if such services were  
8 11 being performed by the state bank itself on its own premises.

8 12 Sec. 17. Section 524.219, Code 2003, is amended to read as  
8 13 follows:

8 14 524.219 FEES.

8 15 1. A state bank subject to examination, supervision, and  
8 16 regulation by the superintendent, shall pay to the  
8 17 superintendent fees, established by the ~~state banking board~~  
8 18 superintendent, based on the costs and expenses incurred in  
8 19 the discharge of the duties imposed upon the superintendent by  
8 20 this chapter. The fees shall include, but are not limited to,  
8 21 costs and expenses for salaries, expenses and travel for  
8 22 employees, office facilities, supplies, and equipment.

8 23 2. The fees for examination of any affiliate of a state  
8 24 bank as provided for in section 524.1105, and the examinations  
8 25 provided for in section 524.217, subsection 1, paragraphs "c"  
8 26 and "d", shall be established by the ~~state banking board~~  
8 27 superintendent, based on the time required for the examination  
8 28 and the administrative costs and expenses incurred in the  
8 29 discharge of the duties imposed upon the superintendent by  
8 30 this chapter. The fees shall include, but not be limited to,  
8 31 costs and expenses for salaries, expenses and travel for  
8 32 employees, office facilities, supplies, and equipment.

8 33 ~~Upon completion of each examination required or allowed by~~  
8 34 ~~this chapter, the examiner in charge of the examination shall~~  
8 35 ~~render a bill for the fees, in duplicate, and shall deliver~~  
9 1 ~~one copy of the bill to the state bank and one copy to the~~  
9 2 ~~superintendent.~~

9 3 3. Failure to pay the amount of the fees to the  
9 4 superintendent within ten days after the date of billing shall  
9 5 subject the state bank or any affiliate of a state bank to an  
9 6 additional charge equal to five percent of the amount of the  
9 7 fees for each day the payment is delinquent.

9 8 Sec. 18. Section 524.310, subsection 1, Code 2003, is  
9 9 amended to read as follows:

9 10 1. The name of a state bank originally incorporated after  
9 11 the effective date of this chapter shall include the word  
9 12 "bank" and may include the word "state" or "trust" in its  
9 13 name. A state bank using the word "trust" in its name must be  
9 14 authorized under this chapter to act in a fiduciary capacity.  
9 15 A national bank or federal savings bank shall not use the word  
9 16 "state" in its legally chartered name.

9 17 Sec. 19. Section 524.405, subsection 1, unnumbered  
9 18 paragraph 1, Code 2003, is amended to read as follows:

9 19 A state bank, ~~with the approval of the superintendent,~~ may  
9 20 increase its capital structure or effect an allocation of  
9 21 amounts within its capital structure, by the use of any of the  
9 22 following methods:

9 23 Sec. 20. NEW SECTION. 524.607A ACTION WITHOUT MEETING.

9 24 1. Unless the articles of incorporation or bylaws provide  
9 25 otherwise, action required or permitted to be taken under this  
9 26 chapter at a board of directors' meeting may be taken without  
9 27 a meeting if the action is consented to by all members of the  
9 28 board. The action must be evidenced by one or more written  
9 29 consents describing the action taken, signed by each director,  
9 30 and included in the minutes or filed with the corporate  
9 31 records reflecting the action taken.

9 32 2. Action taken under this section is effective when the  
9 33 last director signs the consent, unless the consent specifies  
9 34 a different effective date.

9 35 3. A written consent signed under this section has the  
10 1 effect of a meeting vote and may be described as such in any  
10 2 document.

10 3 Sec. 21. Section 524.610, unnumbered paragraph 1, Code  
10 4 2003, is amended to read as follows:

10 5 The shareholders of a state bank shall fix the reasonable  
10 6 compensation of directors for their services as members of the  
10 7 board of directors. Subject to ~~the approval of the~~  
~~10 8 superintendent and~~ approval by the shareholders at an annual  
10 9 or special meeting called for that purpose, the shareholders  
10 10 of a state bank may adopt a pension or profit sharing plan, or  
10 11 both, or other plan of deferred compensation for directors, to  
10 12 which a state bank may contribute.

10 13 Sec. 22. Section 524.703, unnumbered paragraph 2, Code  
10 14 2003, is amended to read as follows:

10 15 Subject to ~~the approval of the superintendent, and~~ approval  
10 16 by the shareholders at an annual or special meeting called for  
10 17 the purpose, the board of directors of a state bank may adopt  
10 18 a pension or profit-sharing plan, or both, or other plan of  
10 19 deferred compensation, for both officers and employees, to  
10 20 which the state bank may contribute.

10 21 Sec. 23. Section 524.802, subsection 5, Code 2003, is  
10 22 amended to read as follows:

10 23 5. Act as agent for a depository institution affiliate to  
~~10 24 the same extent that a national bank can act as an agent for a~~  
~~10 25 depository institution under the provisions of section 18 of~~  
~~10 26 the Federal Deposit Insurance Act, 12 U.S.C. } 1828.~~

10 27 Sec. 24. Section 524.903, subsections 2 and 3, Code 2003,  
10 28 are amended to read as follows:

10 29 2. A state bank shall not accept such drafts in an amount  
10 30 which exceeds at any time in the aggregate for all drawers  
10 31 thirty percent of the state bank's aggregate capital. ~~The~~  
~~10 32 superintendent may authorize a state bank to accept drafts in~~  
~~10 33 an amount not exceeding at any time in the aggregate for all~~  
~~10 34 drawers sixty percent of the state bank's aggregate capital,~~  
~~10 35 but the aggregate of acceptance growing out of domestic~~  
~~11 1 transactions shall in no event exceed thirty percent of~~  
~~11 2 aggregate capital.~~

11 3 3. A state bank, ~~with the prior approval of the~~  
~~11 4 superintendent,~~ may accept drafts, having not more than three  
11 5 months after sight to run, drawn upon it by banks or bankers  
11 6 in foreign countries, or in dependencies or insular  
11 7 possessions of the United States, for the purpose of  
11 8 furnishing dollar exchange as required by the usages of trade  
11 9 where the drafts are drawn in an aggregate amount which shall  
11 10 not at any time exceed for all such acceptance on behalf of a  
11 11 single bank or banker seven and one-half percent of the state  
11 12 bank's aggregate capital, and for all such acceptances, thirty  
11 13 percent of the state bank's aggregate capital.

11 14 Sec. 25. Section 524.904, subsection 7, paragraph a, Code  
11 15 2003, is amended to read as follows:

11 16 a. Additional funds advanced for taxes or for insurance if  
11 17 the advance is for the protection of the state bank, ~~and~~  
~~11 18 provided that such amounts receive the prior approval of the~~  
~~11 19 superintendent.~~

11 20 Sec. 26. Section 524.1201, subsection 3, Code 2003, is  
11 21 amended to read as follows:

11 22 3. Notwithstanding any of the other provisions of this  
11 23 section, original loan documentation and trust recordkeeping  
11 24 functions may be located at an any authorized bank office or  
11 25 at any other location approved by the superintendent.

11 26 Sec. 27. Section 524.1303, subsection 3, Code 2003, is  
11 27 amended to read as follows:

11 28 3. Within thirty days after the application for  
11 29 dissolution involving a provision of acquisition of the state

11 30 bank's assets and assumption of its liabilities by another  
11 31 state bank is accepted for processing, the dissolving bank  
11 32 shall publish ~~once each week for two consecutive weeks a~~  
11 33 notice of the proposed transaction. ~~The notice shall be~~  
~~11 34 published~~ in a newspaper of general circulation published in  
11 35 the municipal corporation or unincorporated area in which the  
12 1 dissolving bank has its principal place of business, and in  
12 2 the municipal corporation or unincorporated area in which the  
12 3 acquiring state bank has its principal place of business, or  
12 4 if there is none, a newspaper of general circulation published  
12 5 in the county or counties, or in a county adjoining the county  
12 6 or counties, in which the dissolving bank and the acquiring  
12 7 bank have their principal place of business. The notice shall  
12 8 be on forms provided by the superintendent, and proof of  
12 9 publication of the notice shall be delivered to the  
12 10 superintendent within fourteen days.

12 11 Sec. 28. Section 524.1402, subsection 4, Code 2003, is  
12 12 amended to read as follows:

12 13 4. If a proposed merger will result in a state bank,  
12 14 within thirty days after the application for merger is  
12 15 accepted for processing, the parties to the plan shall  
12 16 publish, ~~once each week for two consecutive weeks,~~ a notice of  
12 17 the proposed transaction. ~~The notices shall be published in a~~  
12 18 newspaper of general circulation published in the municipal  
12 19 corporation or unincorporated area in which each party to the  
12 20 plan has its principal place of business, or if there is none,  
12 21 in a newspaper of general circulation published in the county,  
12 22 or in a county adjoining the county, in which each party to  
12 23 the plan has its principal place of business. The notice  
12 24 shall be on forms prescribed by the superintendent and shall  
12 25 set forth the names of the parties to the plan and the  
12 26 resulting state bank, the location and post office address of  
12 27 the principal place of business of the resulting state bank  
12 28 and of each office to be maintained by the resulting state  
12 29 bank, and the purpose or purposes of the resulting state bank.  
12 30 Proof of publication of the notice shall be delivered to the  
12 31 superintendent within fourteen days.

12 32 Sec. 29. Section 524.1412, unnumbered paragraph 1, Code  
12 33 2003, is amended to read as follows:

12 34 Within thirty days after the application for conversion has  
12 35 been accepted for processing, the national bank or federal  
13 1 savings association shall publish a notice of the delivery of  
13 2 the articles of conversion to the superintendent ~~once each~~  
~~13 3 week for two successive weeks~~ in a newspaper of general  
13 4 circulation published in the municipal corporation or  
13 5 unincorporated area in which the national bank or federal  
13 6 savings association has its principal place of business, or if  
13 7 there is none, a newspaper of general circulation published in  
13 8 the county, or in a county adjoining the county, in which the  
13 9 national bank or federal savings association has its principal  
13 10 place of business. Proof of publication of the notice shall  
13 11 be delivered to the superintendent within fourteen days. The

13 12 notice shall set forth all of the following:

13 13 Sec. 30. Section 524.1416, subsection 2, Code 2003, is  
13 14 amended to read as follows:

13 15 2. A state bank which converts into a national bank or  
13 16 federal savings association shall notify the superintendent of  
13 17 the proposed conversion, provide such evidence of the adoption  
13 18 of the plan as the superintendent may request, notify the  
13 19 superintendent of any abandonment or disapproval of the plan,  
13 20 file with the superintendent and with the secretary of state a  
13 21 certificate of the approval of the conversion by the  
13 22 comptroller of the currency of the United States or director  
13 23 of the office of thrift supervision, as applicable, and the  
13 24 date upon which such conversion is to become effective. A  
13 25 state bank that converts into a national bank or federal  
13 26 savings association shall comply with the provisions of  
13 27 section 524.310, subsection 1.

13 28 Sec. 31. Section 524.1611, subsection 1, Code 2003, is  
13 29 amended to read as follows:

13 30 1. Any person violating the provisions of ~~subsection 1~~ of  
13 31 section 524.211, subsection 1, shall be guilty of a fraudulent  
13 32 practice, and shall be subject to a further fine of a sum  
13 33 equal to the amount of the value of the property given or  
13 34 received or the money so loaned or borrowed. ~~The deputy~~  
~~13 35 superintendent, an assistant or examiner~~ An employee of the  
14 1 division of banking convicted of a violation of such  
14 2 subsection shall be immediately discharged from employment and  
14 3 shall be forever disqualified from holding any position in the  
14 4 banking division.

14 5 Sec. 32. Section 546.3, Code 2003, is amended to read as

14 6 follows:

14 7 546.3 BANKING DIVISION.

14 8 The banking division shall regulate and supervise banks  
14 9 under chapter 524, regulated loan companies under chapter 536,  
14 10 and industrial loan companies under chapter 536A, and shall  
14 11 perform other duties assigned to the division by law. The  
14 12 division is headed by the superintendent of banking who is  
14 13 appointed pursuant to section 524.201. The state banking  
14 14 ~~board council shall perform duties render advice~~ within the  
14 15 ~~division as prescribed by law when requested by the~~  
14 16 ~~superintendent.~~

14 17 Sec. 33. STATE BANKING COUNCIL == INITIAL FOUR=YEAR TERMS.  
14 18 The governor shall appoint members to the state banking  
14 19 council for terms beginning on May 1, 2005, as follows: One  
14 20 member shall be appointed for a one-year term, one member  
14 21 shall be appointed for a two-year term, two members shall be  
14 22 appointed for three-year terms, and two members shall be  
14 23 appointed for four-year terms.

14 24 Sec. 34. Section 68B.35, Code Supplement 2003, and  
14 25 sections 536.13, 536.23, and 536.28, Code 2003, are amended by  
14 26 striking from the sections the words "state banking board" and  
14 27 "banking board" and "board" when referring to the state  
14 28 banking board and inserting in lieu thereof the words "state  
14 29 banking council".

14 30 Sec. 35. CODE EDITOR'S DIRECTIVE. The Code editor shall  
14 31 correct any references to the state banking council as the  
14 32 successor to the state banking board, including grammatical  
14 33 constructions, anywhere else in the Iowa Code, in any bills  
14 34 awaiting codification, and in any bills enacted by the  
14 35 Eightieth General Assembly, 2004 Regular Session.

15 1 DIVISION II  
15 2 CREDIT UNIONS

15 3 Sec. 36. Section 533.2, Code 2003, is amended to read as  
15 4 follows:

15 5 533.2 AMENDMENTS.

15 6 1. The ~~articles~~ Articles of incorporation or the bylaws  
15 7 may be amended by a favorable vote of a majority of the  
15 8 members present at a meeting, if that number constitutes a  
15 9 quorum and if the proposed amendment was contained in the  
15 10 notice of the meeting.

15 11 2. Bylaws may ~~also~~ be amended by ~~a~~ any of the following  
15 12 methods:

15 13 a. The favorable vote of a majority of the members of the  
15 14 board, or by present at a meeting, if that number constitutes  
15 15 a quorum and if the proposed amendment was contained in the  
15 16 notice of the meeting.

15 17 b. The favorable vote of a majority of the members of the  
15 18 board.

15 19 c. By a majority vote of members voting by mailed or  
15 20 electronic ballot, according to procedures specified by rule  
15 21 of the superintendent requiring at least twenty days' notice  
15 22 to all members, mailed ballots ensuring the confidentiality of  
15 23 voters, announcement to members of the results of the vote,  
15 24 and preservation of the ballots for a reasonable period of  
15 25 time according to procedures specified by rule of the  
15 26 superintendent, requiring at least twenty days' notice to all  
15 27 members. All amendments must be approved by the  
15 28 superintendent before they become effective. An announcement  
15 29 shall be made to members of the results of the vote. Ballots  
15 30 shall be preserved for a reasonable period of time following  
15 31 the vote.

15 32 d. A combination of procedures as specified in paragraphs  
15 33 "a" and "c", whereby members are allowed to vote either in  
15 34 person at a meeting or by mailed or electronic ballot,  
15 35 according to procedures specified by rule of the  
16 1 superintendent. If the proposed amendment receives a  
16 2 favorable majority of the total votes cast in person and by  
16 3 mailed ballot, the bylaws shall be amended.

16 4 Sec. 37. Section 533.4, subsection 5, Code 2003, is  
16 5 amended by adding the following new paragraph:

16 6 NEW PARAGRAPH. j. Any permissible investment for federal  
16 7 credit unions, provided that this paragraph shall not permit a  
16 8 credit union to invest in a credit union service organization  
16 9 except as provided in paragraph "f".

16 10 Sec. 38. Section 533.4, Code 2003, is amended by adding  
16 11 the following new subsection:

16 12 NEW SUBSECTION. 28. Set off a member's accounts against  
16 13 any of the member's debts or liabilities owed the state credit  
16 14 union pursuant to an agreement entered into between the member  
16 15 and the credit union. The credit union shall also have a lien  
16 16 on the shares and deposits of a member for any sum due the

16 17 credit union from the member or for any loan endorsed by the  
16 18 member.

16 19 Sec. 39. Section 533.6, subsection 2, Code 2003, is  
16 20 amended to read as follows:

16 21 2. The superintendent may make or cause to be made an  
16 22 examination of each credit union whenever the superintendent  
16 23 believes such examination is necessary or advisable, but in no  
16 24 event less frequently than once during each ~~eighteen-month~~  
16 25 ~~twenty-four-month~~ period. A credit union designated as  
16 26 serving predominantly low-income members shall be reviewed  
16 27 during each examination to ensure that such credit union is  
16 28 continuing to meet the standards established by rule of the  
16 29 superintendent. Each credit union and all of its officers and  
16 30 agents shall give to the representatives of the superintendent  
16 31 free access to all books, papers, securities, records, and  
16 32 other sources of information under their control. A report of  
16 33 such examination shall be forwarded to the chairperson of each  
16 34 credit union within thirty days after the completion of the  
16 35 examination. Within thirty days of the receipt of this  
17 1 report, a meeting of the directors shall be called to consider  
17 2 matters contained in the report and the action taken shall be  
17 3 set forth in the minutes of the board. The superintendent may  
17 4 accept, in lieu of the examination of a credit union, an audit  
17 5 report conducted by a certified public accounting firm  
17 6 selected from a list of firms previously approved by the  
17 7 superintendent. The cost of the audit shall be paid by the  
17 8 credit union.

17 9 Sec. 40. Section 533.8, Code 2003, is amended to read as  
17 10 follows:

17 11 533.8 ELECTIONS.

17 12 1. At the organization meeting there shall be elected a  
17 13 board of directors of not less than nine members to hold  
17 14 office for such terms as the bylaws provide and until  
17 15 successors are elected and qualify.

17 16 2. At each annual meeting there shall be elected one  
17 17 member to fill each position vacated by reason of expiring  
17 18 terms or other causes.

17 19 3. Pursuant to rules adopted by the superintendent, state  
17 20 credit unions may allow members to vote on the election of  
17 21 directors via electronic means including, but not limited to,  
17 22 the internet or telephone.

17 23 4. A record of the names and addresses of the directors,  
17 24 officers and committee persons shall be filed with the  
17 25 superintendent within ten days following each election.

17 26 5. A state credit union wishing to maintain a board of  
17 27 directors of less than nine members may apply to the  
17 28 superintendent for permission to reduce the required number of  
17 29 directors to no fewer than seven members. An application to  
17 30 reduce the required number of directors under this subsection  
17 31 must demonstrate both of the following:

17 32 a. The application is necessitated by a hardship or other  
17 33 special circumstance.

17 34 b. The lesser number of directors is in the best interest  
17 35 of the credit union and its members.

18 1 Sec. 41. Section 533.9, Code 2003, is amended to read as  
18 2 follows:

18 3 533.9 DIRECTORS AND OFFICERS.

18 4 1. Within five days following the organization meeting and  
18 5 each annual meeting, the directors shall elect from their own  
18 6 number a chairperson of the board, a vice chairperson, a  
18 7 secretary, and a chief financial officer whose title shall be  
18 8 designated by the board of directors.

18 9 2. The board shall appoint a credit committee of not less  
18 10 than three members, and an auditing committee of not less than  
18 11 three members, and may also appoint alternate members of the  
18 12 credit committee.

18 13 3. Only a member of the board of directors or a member of  
18 14 the credit union may be appointed to the credit committee or  
18 15 to the auditing committee.

18 16 4. The board may appoint an executive committee to act on  
18 17 its behalf when designated for that purpose.

18 18 5. The duties and responsibilities of a director and of  
18 19 the board of directors have general shall include, but are not  
18 20 limited to, all of the following:

18 21 a. General management of the affairs of the state credit  
18 22 union including, but not limited to, the power to fix,

18 23 b. Setting the amount of the surety bond which that shall  
18 24 be required of all officers and employees handling money.

18 25 c. Periodic review of the original records of the state  
18 26 credit union, or comprehensive summaries prepared by the  
18 27 officers of the credit union, pertaining to loans, security

18 28 interests, and investments.

18 29 d. Review of the adequacy of the state credit union's  
18 30 internal controls.

18 31 e. Periodic review of utilization of security measures.

18 32 f. Establishing education and training programs to ensure  
18 33 that the directors possess adequate knowledge to manage the  
18 34 affairs of the state credit union.

18 35 6. a. Directors of a state credit union shall discharge  
19 1 the duties of their position in good faith and with that  
19 2 diligence, care, and skill which ordinarily prudent persons  
19 3 would exercise under similar circumstances in like positions.

19 4 b. The directors have a continuing responsibility to  
19 5 assure themselves that the state credit union is being managed  
19 6 according to law and that the practices and policies adopted  
19 7 by the board are being implemented.

19 8 7. Unless the bylaws provide otherwise, the board of  
19 9 directors may permit any and all directors to participate in  
19 10 all except one meeting per year of the board of directors  
19 11 through the use of any means of communication by which all  
19 12 directors participating in the meeting may simultaneously hear  
19 13 each other and communicate during the meeting. A director  
19 14 participating in a meeting by this means is deemed to be  
19 15 present at the meeting.

19 16 8. a. A director, committee member, officer, or employee  
19 17 of a state credit union shall not directly or indirectly  
19 18 participate in either the deliberation upon or the  
19 19 determination of any matter in which the director, committee  
19 20 member, officer, or employee has a direct or indirect  
19 21 interest.

19 22 b. For the purposes of this subsection, an interest may  
19 23 include, but is not limited to, a pecuniary or familial  
19 24 interest.

19 25 Sec. 42. Section 533.12, subsection 1, Code 2003, is  
19 26 amended to read as follows:

19 27 1. The capital of a credit union shall consist of the  
19 28 payments that have been made to it by the several members  
19 29 thereof on shares. ~~The credit union shall have a lien on the~~  
19 30 ~~shares and deposits of a member for any sum due to the credit~~  
19 31 ~~union from the member or for any loan endorsed by the member.~~

19 32 A credit union may charge an entrance fee as may be provided  
19 33 by the bylaws.

19 34 Sec. 43. Section 533.19, Code 2003, is amended to read as  
19 35 follows:

20 1 533.19 EXPULSION == WITHDRAWAL.

20 2 1. The board of directors may expel any member who has  
20 3 failed to do either of the following:

20 4 a. Carry out the member's obligations to the state credit  
20 5 union.

20 6 b. Comply with the state credit union's bylaws or  
20 7 policies.

20 8 2. A member may be expelled by a majority vote of the  
20 9 board of directors at a regular or special meeting of the  
20 10 board.

20 11 a. ~~The An~~ expelled member may request a hearing before the  
20 12 membership of the credit union. A meeting of the membership  
20 13 shall be held within sixty days of the member's request.

20 14 b. The membership may, by majority vote at the membership  
20 15 meeting, reinstate the expelled member upon terms and  
20 16 conditions prescribed by it.

20 17 3. Any member may withdraw from the credit union at any  
20 18 time, but notice of withdrawal may be required as provided in  
20 19 this section.

20 20 4. All amounts paid on shares or as deposits of an  
20 21 expelled or withdrawing member, with any dividends or interest  
20 22 accredited thereto, to the date thereof, shall, after  
20 23 deducting all amounts due from the member to the credit union  
20 24 and an amount as necessary to honor outstanding share drafts  
20 25 drawn against accounts of the member, be paid to the member.

20 26 5. Upon expulsion or withdrawal of a member from a credit  
20 27 union, or at any other time, the credit union may require  
20 28 sixty days' notice of intention to withdraw shares and thirty  
20 29 days' notice of intention to withdraw deposits, except that a  
20 30 credit union shall not at any time require notice of  
20 31 withdrawal with respect to funds which are subject to  
20 32 withdrawal by share drafts.

20 33 6. Withdrawing or expelled members shall have no further  
20 34 rights in the credit union but are not, by such expulsion or  
20 35 withdrawal, released from any remaining liability to the

21 1 credit union.

21 2 Sec. 44. NEW SECTION. 533.19A SUSPENSION OR RESTRICTION  
21 3 OF SERVICES.

21 4 1. A state credit union may suspend or deny certain  
21 5 services to members who have performed any of the following  
21 6 actions:  
21 7 a. Caused a loss to the state credit union.  
21 8 b. Violated the membership agreement or any policy adopted  
21 9 by the board.  
21 10 c. Been physically or verbally abusive to state credit  
21 11 union members or staff.  
21 12 2. Members with suspended services may maintain a share  
21 13 account and continue to vote at annual and special meetings.  
21 14 Sec. 45. Section 533.38, Code 2003, is amended by adding  
21 15 the following new subsection:  
21 16 NEW SUBSECTION. 12. Establish one or more capital  
21 17 accounts in the same manner as if it were a federal credit  
21 18 union.

21 19 DIVISION III

21 20 BANKS AS LIMITED LIABILITY COMPANIES

21 21 Sec. 46. Section 422.11, Code 2003, is amended to read as  
21 22 follows:

21 23 422.11 FRANCHISE TAX CREDIT.

21 24 The taxes imposed under this division, less the credits  
21 25 allowed under section 422.12, shall be reduced by a franchise  
21 26 tax credit. A taxpayer who is a shareholder in a financial  
21 27 institution, as defined in section 581 of the Internal Revenue  
21 28 Code, which has in effect for the tax year an election under  
21 29 subchapter S of the Internal Revenue Code, or is a member of a  
21 30 financial institution organized as a limited liability company  
21 31 under chapter 524 that is taxed as a partnership for federal

21 32 income tax purposes, shall compute the amount of the tax  
21 33 credit by recomputing the amount of tax under this division by  
21 34 reducing the taxable income of the taxpayer by the taxpayer's  
21 35 pro rata share of the items of income and expense of the  
22 1 financial institution and subtracting the credits allowed  
22 2 under section 422.12. This recomputed tax shall be subtracted  
22 3 from the amount of tax computed under this division after the  
22 4 deduction for credits allowed under section 422.12. The  
22 5 resulting amount, which shall not exceed the taxpayer's pro  
22 6 rata share of the franchise tax paid by the financial  
22 7 institution, is the amount of the franchise tax credit  
22 8 allowed.

22 9 Sec. 47. Section 524.103, subsections 6, 8, 17, 20, 30,  
22 10 31, and 33, Code 2003, are amended to read as follows:

22 11 6. "Articles of incorporation" means the original or  
22 12 restated articles of incorporation and all amendments thereto  
22 13 and includes articles of merger. "Articles of incorporation"  
22 14 also means the original or restated articles of organization

22 15 and all amendments including articles of merger if a state  
22 16 bank is organized as a limited liability company under this  
22 17 chapter.

22 18 8. "Bank" means a corporation or limited liability company  
22 19 organized under this chapter or 12 U.S.C. } 21.

22 20 17. "Control" means when a person, directly or indirectly  
22 21 or acting through or together with one or more persons,  
22 22 satisfies any of the following:

22 23 a. Owns, controls, or has the power to vote fifty percent  
22 24 or more of any class of voting securities or membership  
22 25 interests of another person.

22 26 b. Controls, in any manner, the election of a majority of  
22 27 the directors, managers, trustees, or other persons exercising  
22 28 similar functions of another person.

22 29 c. Has the power to exercise a controlling influence over  
22 30 the management or policies of another person.

22 31 20. "Executive officer" means a person who participates or  
22 32 has authority to participate, other than in the capacity of a  
22 33 director or manager, in major policymaking functions of a  
22 34 state bank, whether or not the officer has an official title,  
22 35 whether or not such a title designates the officer as an  
23 1 assistant, or whether or not the officer is serving without  
23 2 salary or other compensation. The chief executive officer,  
23 3 chairperson of the board, the president, every vice president,  
23 4 and the cashier of a state bank are deemed to be executive  
23 5 officers, unless such an officer is excluded, by resolution of  
23 6 the board of directors of a state bank or by the bylaws of the  
23 7 state bank, from participation, other than in the capacity of  
23 8 a director, in major policymaking functions of the state bank,  
23 9 and the officer does not actually participate in the major  
23 10 policymaking functions. All officers who serve on a board of  
23 11 directors are deemed to be executive officers, except as  
23 12 provided for in section 524.701, subsection 3.

23 13 30. "Shareholder" means one who is a holder of record of  
23 14 shares in a state bank. If a state bank is organized as a

23 15 limited liability company under this chapter, "shareholder"  
23 16 means any member of the limited liability company.

23 17 31. "Shares" means the units into which the proprietary  
23 18 interests in a state bank are divided, including any  
23 19 membership interests of a state bank organized as a limited  
23 20 liability company under this chapter.

23 21 33. "State bank" means any bank incorporated pursuant to  
23 22 the provisions of this chapter after January 1, 1970, and any  
23 23 "state bank" or "savings bank" incorporated pursuant to the  
23 24 laws of this state and doing business as such on January 1,  
23 25 1970, or organized as a limited liability company under this  
23 26 chapter.

23 27 Sec. 48. Section 524.103, Code 2003, is amended by adding  
23 28 the following new subsections:

23 29 NEW SUBSECTION. 9A. "Board of directors" means the board  
23 30 of directors of a state bank as provided in section 524.601.  
23 31 For state banks organized as a limited liability company under  
23 32 this chapter, "board of directors" means a board of directors  
23 33 or board of managers as designated by the limited liability  
23 34 company in its articles of organization or operating  
23 35 agreement.

24 1 NEW SUBSECTION. 18A. "Director" means a member of the  
24 2 board of directors and includes a manager of a state bank  
24 3 organized as a limited liability company under this chapter.

24 4 NEW SUBSECTION. 23A. "Manager" means a person designated  
24 5 by the members to manage a state bank organized as a limited  
24 6 liability company under this chapter as provided in the  
24 7 articles of organization or an operating agreement and may  
24 8 include a member of the board of directors.

24 9 NEW SUBSECTION. 23B. "Member" means a person with a  
24 10 membership interest in a state bank organized as a limited  
24 11 liability company under this chapter.

24 12 NEW SUBSECTION. 23C. "Membership interest" means a  
24 13 member's share of the profits and losses, the right to receive  
24 14 distributions of assets, and any right to vote or participate  
24 15 in management, of a state bank organized as a limited  
24 16 liability company under this chapter.

24 17 Sec. 49. Section 524.301, Code 2003, is amended to read as  
24 18 follows:

24 19 524.301 INCORPORATORS == ORGANIZERS.

24 20 A state bank may be incorporated or organized as a limited  
24 21 liability company under this chapter by one or more

24 22 individuals eighteen years of age or older, a majority of whom  
24 23 shall be residents of this state and citizens of the United  
24 24 States.

24 25 Sec. 50. NEW SECTION. 524.302A ARTICLES OF INCORPORATION  
24 26 == LIMITED LIABILITY COMPANY.

24 27 1. The articles of incorporation of a state bank organized  
24 28 as a limited liability company under this chapter shall be in  
24 29 the form prescribed by the superintendent, and shall set forth  
24 30 all of the following:

24 31 a. The name of the state bank, that it is organized for  
24 32 the purpose of conducting the business of banking, and that it  
24 33 is organized under the provisions of this chapter.

24 34 b. The street address of the limited liability company's  
24 35 initial registered office and the name of its initial  
25 1 registered agent at that office.

25 2 c. The location of the state bank's proposed principal  
25 3 office of the limited liability company, which may be the same  
25 4 as the registered office, but need not be within this state.

25 5 d. The duration of the state bank, which shall be  
25 6 perpetual.

25 7 e. The aggregate number of common and preferred shares  
25 8 which the state bank shall have authority to issue and the par  
25 9 value of such shares. If such shares are to be divided into  
25 10 classes or series, the number of shares of each class or  
25 11 series and a statement of the par value of the shares of each  
25 12 class or series.

25 13 f. The number of managers constituting the initial board  
25 14 of directors and the names and addresses of the individuals  
25 15 who are to serve as directors until successors are elected and  
25 16 qualify. A statement that the exclusive authority to manage  
25 17 the state bank is vested in a board of directors that is  
25 18 elected or appointed by the members, that operates in  
25 19 substantially the same manner as, and has substantially the  
25 20 same rights, powers, privileges, duties, and responsibilities  
25 21 as, a board of directors of a state bank chartered as a  
25 22 corporation under this chapter.

25 23 g. A provision that the articles of incorporation,  
25 24 operating agreement, or other organizational documents of the  
25 25 state bank shall not require the consent of any other owner in

25 26 order for an owner to transfer membership interests in the  
25 27 state bank, including voting rights.

25 28 2. The articles of incorporation may set forth any or all  
25 29 of the following:

25 30 a. Provisions not inconsistent with law regarding  
25 31 management of the business and regulation of the affairs of  
25 32 the state bank.

25 33 b. Any provision required or permitted by this chapter to  
25 34 be set forth in the operating agreement.

25 35 3. The articles of incorporation need not set forth any of  
26 1 the organizational powers enumerated in this chapter.

26 2 Sec. 51. Section 524.303, Code 2003, is amended to read as  
26 3 follows:

26 4 524.303 APPLICATION FOR APPROVAL.

26 5 The incorporators or organizers shall make an application  
26 6 to the superintendent for approval of a proposed state bank in  
26 7 the manner prescribed by the superintendent and shall deliver  
26 8 to the superintendent, together with such application:

26 9 1. The articles of incorporation.

26 10 2. Applicable fees, payable to the secretary of state as  
26 11 specified in section 490.122 or 490A.124, for the filing and  
26 12 recording of the articles of incorporation.

26 13 Sec. 52. Section 524.304, subsection 1, Code 2003, is  
26 14 amended to read as follows:

26 15 1. The incorporators or organizers of a state bank shall,  
26 16 within thirty days of the acceptance of the application for  
26 17 processing, publish notice of the proposed incorporation or  
26 18 organization once each week for two successive weeks in a  
26 19 newspaper of general circulation published in the municipal  
26 20 corporation which is proposed as the principal place of  
26 21 business of the state bank, or if there is none, a newspaper  
26 22 of general circulation published in the county, or in a county  
26 23 adjoining the county, in which the proposed state bank is to  
26 24 have its principal place of business. The notice shall set  
26 25 forth all of the following:

26 26 a. The name of the proposed state bank.

26 27 b. A statement that it is to be incorporated or organized  
26 28 under this chapter.

26 29 c. The purpose or purposes of the state bank.

26 30 d. The names and addresses of the incorporators or  
26 31 organizers and of the members of the initial board of  
26 32 directors or board of directors as they appear, or will  
26 33 appear, in the articles of incorporation.

26 34 e. The date the application was accepted for processing.

26 35 f. If the incorporation or organization of the state bank  
27 1 has been approved by the superintendent under section 524.305,  
27 2 subsection 8, the name and address of the bank with which the  
27 3 state bank will have merged, or the assets of which the state  
27 4 bank will have acquired or the condition of which in some  
27 5 other way provided a purpose for the incorporation or  
27 6 organization.

27 7 Sec. 53. Section 524.305, subsection 1, paragraph d, Code  
27 8 2003, is amended to read as follows:

27 9 d. The character and fitness of the incorporators or  
27 10 organizers and of the members of the initial board of  
27 11 directors are such as to command the confidence of the  
27 12 community and to warrant the belief that the business of the  
27 13 proposed state bank will be honestly and efficiently  
27 14 conducted.

27 15 Sec. 54. Section 524.305, subsections 6, 7, and 9, Code  
27 16 2003, are amended to read as follows:

27 17 6. If the superintendent approves the application, the  
27 18 superintendent shall notify the incorporators or organizers,  
27 19 and such other persons who requested in writing that they be  
27 20 notified, of the approval. If the superintendent disapproves  
27 21 the application, the superintendent shall notify the  
27 22 incorporators or organizers of the action and the reason for  
27 23 the decision.

27 24 7. The actions of the superintendent shall be subject to  
27 25 judicial review in accordance with chapter 17A. The court may  
27 26 award damages to the incorporators or organizers if it finds  
27 27 that review is sought frivolously or in bad faith.

27 28 9. As a condition of receiving the decision of the  
27 29 superintendent with respect to the application the  
27 30 incorporators or organizers shall reimburse the superintendent  
27 31 for all expenses incurred by the superintendent in connection  
27 32 with the application.

27 33 Sec. 55. Section 524.306, Code 2003, is amended to read as  
27 34 follows:

27 35 524.306 INCORPORATION OR ORGANIZATION OF STATE BANK.

28 1 1. Unless a delayed effective date or time is specified,

28 2 the corporate or organizational existence of a state bank  
28 3 begins when the articles of incorporation, with the  
28 4 superintendent's approval indicated on the articles of  
28 5 incorporation, are filed with the secretary of state. The  
28 6 secretary of state shall record the articles of incorporation  
28 7 and forward a copy of them to the county recorder of the  
28 8 county in which the state bank is to have its principal place  
28 9 of business.

28 10 2. The secretary of state's acknowledgment of filing of  
28 11 the articles of incorporation is conclusive proof that the  
28 12 incorporators or organizers satisfied all conditions precedent  
28 13 to incorporation or organization, except in a proceeding  
28 14 instituted by the superintendent to cancel or revoke the  
28 15 incorporation or involuntarily dissolve the corporation or  
28 16 organization.

28 17 Sec. 56. Section 524.307, Code 2003, is amended to read as  
28 18 follows:

28 19 524.307 INITIAL ORGANIZATION OF STATE BANK.

28 20 Upon incorporation, or organization as a limited liability  
28 21 company, of the state bank, the initial board of directors  
28 22 shall hold an organizational meeting within this state, at the  
28 23 call of a majority of the directors, to complete the  
28 24 organization of the state bank by electing officers, adopting  
28 25 bylaws, if any are to be adopted, and conducting any other  
28 26 business properly brought before the board at the meeting.

28 27 Sec. 57. Section 524.308, subsection 2, Code 2003, is  
28 28 amended to read as follows:

28 29 2. If a state bank transacts any business before receipt  
28 30 of an authorization to do business in violation of subsection  
28 31 1, the directors, managers, and officers who willfully  
28 32 authorized or participated in the action are severally liable  
28 33 for the debts and liabilities of the state bank incurred prior  
28 34 to the receipt of the authorization to do business.

28 35 Sec. 58. Section 524.310, Code 2003, is amended to read as  
29 1 follows:

29 2 524.310 NAME OF STATE BANK.

29 3 1. The name of a state bank originally incorporated or  
29 4 organized after the effective date of this chapter shall  
29 5 include the word "bank" and may include the word "state" or  
29 6 "trust" in its name. A state bank using the word "trust" in  
29 7 its name must be authorized under this chapter to act in a  
29 8 fiduciary capacity.

29 9 2. The provisions of this section shall not require any  
29 10 state bank, existing and operating on January 1, 1970, to add  
29 11 to, modify or otherwise change its corporate or organizational  
29 12 name, either on January 1, 1970, or upon renewal of its  
29 13 corporate existence pursuant to section 524.314.

29 14 3. If a state bank existing and operating on January 1,  
29 15 1970, causes its corporate or organizational name to be  
29 16 changed, the name as changed shall comply with subsection 1 of  
29 17 this section.

29 18 4. a. A person may reserve the exclusive use of a  
29 19 corporate or organizational name for a state bank by  
29 20 delivering an application to the secretary of state for  
29 21 filing. The application must set forth the name and address  
29 22 of the applicant and the name proposed to be reserved. If the  
29 23 secretary of state finds that the corporate or organizational  
29 24 name applied for is available, the secretary of state shall  
29 25 reserve the name for the applicant's exclusive use for a  
29 26 nonrenewable one hundred twenty day period.

29 27 b. The owner of a reserved corporate or organizational  
29 28 name may transfer the reservation to another person by  
29 29 delivering to the secretary of state a signed notice of the  
29 30 transfer that states the name and address of the transferee.

29 31 Sec. 59. Section 524.312, subsections 1 and 5, Code 2003,  
29 32 are amended to read as follows:

29 33 1. A state bank originally incorporated or organized  
29 34 pursuant to this chapter shall have its principal place of  
29 35 business within the city limits of a municipal corporation.  
30 1 The existence of a state bank shall not, however, be affected  
30 2 by the subsequent discontinuance of the municipal corporation.  
30 3 A state bank existing and operating on January 1, 1970, which  
30 4 does not have its principal place of business within the city  
30 5 limits of a municipal corporation, may renew its corporate or  
30 6 organizational existence pursuant to section 524.314 without

30 7 regard to this section and may also operate as a bank or  
30 8 convert to and operate as a bank office when acquired by or  
30 9 merged into another state bank and approved by the  
30 10 superintendent.

30 11 5. A state bank approved under the provisions of section  
30 12 524.305, subsection 8, shall not commence its business at any

30 13 location other than within a municipal corporation or  
30 14 unincorporated area in which was located the principal place  
30 15 of business or an office of the bank the condition of which  
30 16 was the basis for the superintendent authorizing incorporation  
30 17 or organization of the new state bank.

30 18 Sec. 60. Section 524.313, Code 2003, is amended to read as  
30 19 follows:

30 20 524.313 BYLAWS.

30 21 A state bank may adopt bylaws. The power to adopt, amend,  
30 22 or repeal bylaws or adopt new bylaws is vested in the board of  
30 23 directors unless reserved to the shareholders by the articles  
30 24 of incorporation. The bylaws may contain any provisions for  
30 25 the regulation and management of the affairs of the state bank  
30 26 not inconsistent with law or the articles of incorporation.

30 27 For a state bank organized as a limited liability company  
30 28 under this chapter, "bylaws" means the operating agreement of  
30 29 the state bank.

30 30 Sec. 61. NEW SECTION. 524.315 STATE BANKS AS LIMITED  
30 31 LIABILITY COMPANIES.

30 32 1. A state bank organized as a limited liability company  
30 33 under this chapter shall also be subject to chapter 490A, the  
30 34 Iowa limited liability company Act. If a provision of the  
30 35 Iowa limited liability company Act conflicts with a provision  
31 1 of this chapter or any rule of the superintendent adopted  
31 2 pursuant to this chapter, the provisions of this chapter or  
31 3 rule of the superintendent shall control.

31 4 2. The superintendent shall possess the exclusive  
31 5 authority to regulate a state bank organized as a limited  
31 6 liability company under this chapter.

31 7 3. The superintendent may adopt rules to ensure that a  
31 8 state bank organized as a limited liability company under this  
31 9 chapter is operating in a safe and sound manner and is subject  
31 10 to the superintendent's authority in the same manner as a  
31 11 state bank organized as a corporation.

31 12 Sec. 62. Section 524.401, subsections 2, 3, and 4, Code  
31 13 2003, are amended to read as follows:

31 14 2. The minimum capital structure of a state bank  
31 15 incorporated after July 1, 1995, or organized after July 1,  
31 16 2004, pursuant to the provisions of this chapter shall not be  
31 17 less than the amount required by the federal deposit insurance  
31 18 corporation, or its successor, or a greater amount which the  
31 19 superintendent may deem necessary in view of the deposit  
31 20 potential of the state bank and current banking standards  
31 21 relating to total capital requirements.

31 22 3. A state bank incorporated on or after July 1, 1995, or  
31 23 organized after July 1, 2004, pursuant to this chapter, prior  
31 24 to receiving authorization to do business from the  
31 25 superintendent, shall establish paid-in surplus and undivided  
31 26 profits as required by the superintendent.

31 27 4. A state bank originally incorporated or organized  
31 28 pursuant to this chapter shall establish, prior to receiving  
31 29 authorization to do business from the superintendent, paid-in  
31 30 surplus and undivided profits as required by the  
31 31 superintendent.

31 32 Sec. 63. Section 524.525, Code 2003, is amended to read as  
31 33 follows:

31 34 524.525 SUBSCRIPTION FOR SHARES BEFORE INCORPORATION OR  
31 35 ORGANIZATION.

32 1 1. A subscription for shares entered into before  
32 2 incorporation or organization of the state bank is irrevocable  
32 3 for six months unless the subscription agreement provides a  
32 4 longer or shorter period, or all subscribers agree to  
32 5 revocation.

32 6 2. The board of directors may determine the payment terms  
32 7 of subscriptions for shares that were entered into before  
32 8 incorporation or organization of the state bank unless the  
32 9 subscription agreement specifies the terms. A call for  
32 10 payment by the board of directors must be uniform so far as  
32 11 practicable as to all shares of the same class or series,  
32 12 unless the subscription agreement specifies otherwise.

32 13 3. Shares issued pursuant to subscriptions entered into  
32 14 before incorporation or organization of the state bank are  
32 15 fully paid and nonassessable when the state bank receives the  
32 16 consideration specified in the subscription agreement.

32 17 4. If a subscriber defaults in payment of money or  
32 18 property under a subscription agreement entered into before  
32 19 incorporation or organization of the state bank, the state  
32 20 bank may do either of the following:

32 21 a. Collect the amount owed as any other debt.  
32 22 b. Unless the subscription agreement provides otherwise,  
32 23 the state bank may rescind the agreement and may sell the

32 24 shares if the debt remains unpaid more than twenty days after  
32 25 the state bank sends written demand for payment to the  
32 26 subscriber.

32 27 Sec. 64. Section 524.528, subsection 2, paragraph c, Code  
32 28 2003, is amended to read as follows:  
32 29 c. There is no preemptive right with respect to any of the  
32 30 following:

32 31 (1) Shares issued as compensation to directors, managers,  
32 32 officers, agents, or employees of the state bank, its  
32 33 subsidiaries, or its affiliates.

32 34 (2) Shares issued to satisfy conversion or option rights  
32 35 created to provide compensation to directors, managers,  
33 1 officers, agents, or employees of the state bank, its  
33 2 subsidiaries, or its affiliates.

33 3 (3) Shares authorized in articles of incorporation that  
33 4 are issued within six months from the effective date of  
33 5 incorporation or organization.

33 6 Sec. 65. Section 524.801, subsection 1, Code 2003, is  
33 7 amended to read as follows:

33 8 1. To sue and be sued, complain and defend, in its  
33 9 corporate or organizational name.

33 10 Sec. 66. Section 524.801, unnumbered paragraph 2, Code  
33 11 2003, is amended to read as follows:

33 12 The powers granted in this section shall not be construed  
33 13 as limiting or enlarging any grant of authority made elsewhere  
33 14 in this chapter, or as a limitation on the purposes for which  
33 15 a state bank may be incorporated or organized.

33 16 Sec. 67. Section 524.1301, Code 2003, is amended to read  
33 17 as follows:

33 18 524.1301 DISSOLUTION BY INCORPORATORS, ORGANIZERS, OR  
33 19 INITIAL DIRECTORS.

33 20 A majority of the incorporators, organizers, or initial  
33 21 directors of a state bank that has not issued shares or has  
33 22 not commenced business may dissolve the state bank by  
33 23 delivering articles of dissolution to the superintendent,  
33 24 together with the applicable filing and recording fees, for  
33 25 filing with the secretary of state that set forth all of the  
33 26 following:

33 27 1. The name of the state bank.  
33 28 2. The date of its incorporation or organization.  
33 29 3. Either of the following:  
33 30 a. That the state bank has not issued any shares.  
33 31 b. That the state bank has not commenced business.  
33 32 4. That no debt of the state bank remains unpaid.  
33 33 5. If shares were issued, that the net assets of the state  
33 34 bank remaining after the payment of all necessary expenses  
33 35 have been distributed to the shareholders.

34 1 6. That a majority of the incorporators, organizers, or  
34 2 initial directors authorized the dissolution.

34 3 Sec. 68. Section 524.1302, Code 2003, is amended to read  
34 4 as follows:

34 5 524.1302 INVOLUNTARY DISSOLUTION PRIOR TO COMMENCEMENT OF  
34 6 BUSINESS.

34 7 Prior to the issuance of an authorization to do business,  
34 8 the superintendent may cause the dissolution of a state bank  
34 9 if there exists any reason why it should not have been  
34 10 incorporated or organized under this chapter or if an  
34 11 authorization to do business has not been issued within one  
34 12 year after the date of its incorporation or organization, or  
34 13 such longer time as the superintendent may allow for  
34 14 satisfaction of conditions precedent to its issuance. After  
34 15 giving the state bank adequate notice and an opportunity for  
34 16 hearing, the superintendent shall certify the applicable facts  
34 17 by the filing of a statement with the secretary of state, who  
34 18 shall thereafter issue a certificate of dissolution. Upon the  
34 19 issuance of such certificate of dissolution by the secretary  
34 20 of state, the corporate or organizational existence of the  
34 21 state bank shall cease.

34 22 Sec. 69. Section 524.1309, Code 2003, is amended to read  
34 23 as follows:

34 24 524.1309 BECOMING SUBJECT TO CHAPTER 490 OR 490A.

34 25 In lieu of the dissolution procedure prescribed in sections  
34 26 524.1303 to 524.1306, a state bank may cease to carry on the  
34 27 business of banking and, after compliance with this section,  
34 28 continue as a corporation subject to chapter 490; or if the  
34 29 state bank is organized as a limited liability company under  
34 30 this chapter, continue as a limited liability company subject  
34 31 to chapter 490A.

34 32 1. A state bank ~~which~~ that has commenced business may  
34 33 propose to voluntarily cease to carry on the business of  
34 34 banking and become a corporation subject to chapter 490, or a

34 35 limited liability company subject to chapter 490A, upon the  
35 1 affirmative vote of the holders of at least a majority of the  
35 2 shares entitled to vote on such proposal, adopting a plan  
35 3 involving both a provision for acquisition of its assets and  
35 4 assumption of its liabilities by another state bank, national  
35 5 bank, or other financial institution insured by the federal  
35 6 deposit insurance corporation, and a provision for continuance  
35 7 of its business if acquisition of its assets and assumption of  
35 8 its liabilities is not effected, or any other plan providing  
35 9 for the cessation of banking business and the payment of its  
35 10 liabilities.

35 11 2. The application to the superintendent for approval of a  
35 12 plan described in subsection 1 ~~of this section~~ shall be  
35 13 treated by the superintendent in the same manner as an  
35 14 application for approval of a plan of dissolution under  
35 15 ~~subsection 2 of section 524.1303, subsection 2,~~ and shall be  
35 16 subject to ~~subsection 3 of section 524.1303, subsection 3.~~

35 17 3. Immediately upon adoption and approval of a plan to  
35 18 voluntarily cease to carry on the business of banking and  
35 19 become a corporation subject to chapter 490, or a limited  
35 20 liability company subject to chapter 490A, the state bank  
35 21 shall deliver to the superintendent a plan to cease the  
35 22 business of banking and become a corporation subject to  
35 23 chapter 490, or a limited liability company subject to chapter  
35 24 490A, which shall be signed by two of its duly authorized  
35 25 officers and shall contain the name of the state bank, the  
35 26 post office address of its principal place of business, the  
35 27 name and address of its officers and directors, the number of  
35 28 shares entitled to vote on the plan and the number of shares  
35 29 voted for or against the plan, respectively, the nature of the  
35 30 business to be conducted by the corporation under chapter 490,  
35 31 or by the limited liability company subject to chapter 490A,  
35 32 and the general nature of the assets to be held by the  
35 33 corporation or company.

35 34 4. Upon approval of the plan by the superintendent, the  
35 35 state bank shall immediately surrender to the superintendent  
36 1 its authorization to do business as a bank and shall cease to  
36 2 accept deposits and carry on the banking business except  
36 3 insofar as may be necessary for it to complete the settlement  
36 4 of its affairs as a state bank in accordance with subsection  
36 5 5.

36 6 5. The board of directors has full power to complete the  
36 7 settlement of the affairs of the state bank. Within thirty  
36 8 days after approval by the superintendent of the plan to cease  
36 9 the business of banking and become a corporation subject to  
36 10 chapter 490, or a limited liability company subject to chapter  
36 11 490A, the state bank shall give notice of its intent to  
36 12 persons identified in section 524.1305, subsection 4, in the  
36 13 manner provided for in that subsection. In completing the  
36 14 settlement of its affairs as a state bank the state bank shall  
36 15 also follow the procedure prescribed in section 524.1305,  
36 16 subsections 4, 5, and 6.

36 17 6. Upon completion of all the requirements of this  
36 18 section, the state bank shall deliver to the superintendent  
36 19 articles of intent to be subject to chapter 490 or 490A,  
36 20 together with the applicable filing and recording fees, which  
36 21 shall set forth that the state bank has complied with this  
36 22 section, that it has ceased to carry on the business of  
36 23 banking, and the information required by section 490.202  
36 24 relative to the contents of articles of incorporation under  
36 25 chapter 490, or article of organization under chapter 490A.  
36 26 If the superintendent finds that the state bank has complied  
36 27 with this section and that the articles of intent to be  
36 28 subject to chapter 490 or 490A satisfy the requirements of  
36 29 this section, the superintendent shall deliver them to the  
36 30 secretary of state for filing and recording in the secretary  
36 31 of state's office, and they shall be filed and recorded in the  
36 32 office of the county recorder.

36 33 7. Upon the filing of the articles of intent to be subject  
36 34 to chapter 490 or 490A, the state bank shall cease to be a  
36 35 state bank subject to this chapter, and shall cease to have  
37 1 the powers of a state bank subject to this chapter and shall  
37 2 become a corporation subject to chapter 490 or a limited  
37 3 liability company subject to chapter 490A. The secretary of  
37 4 state shall issue a certificate as to the filing of the  
37 5 articles of intent to be subject to chapter 490 or 490A, and  
37 6 send the certificate to the corporation or limited liability  
37 7 company or its representative. The articles of intent to be  
37 8 subject to chapter 490 or 490A shall be the articles of  
37 9 incorporation of the corporation or a limited liability  
37 10 company. The provisions of chapter 490 or 490A becoming

37 11 applicable to a corporation or limited liability company  
37 12 formerly doing business as a state bank shall not affect any  
37 13 right accrued or established, or liability or penalty incurred  
37 14 under this chapter prior to the filing with the secretary of  
37 15 state of the articles of intent to be subject to chapter 490  
37 16 or 490A.

37 17 8. A shareholder of a state bank who objects to adoption  
37 18 by the state bank of a plan to cease to carry on the business  
37 19 of banking and to continue as a corporation subject to chapter  
37 20 490, or a limited liability company subject to chapter 490A,  
37 21 is entitled to appraisal rights provided for in chapter 490,  
37 22 division XIII, or in chapter 490A, subchapter VII.

37 23 9. A state bank, at any time prior to the approval of the  
37 24 articles of intent to become subject to chapter 490 or 490A,  
37 25 may revoke the proceedings in the manner prescribed by section  
37 26 524.1306.

37 27 Sec. 70. Section 524.1405, subsection 2, paragraph f, Code  
37 28 2003, is amended to read as follows:

37 29 f. The shares of each party to the merger that are to be  
37 30 converted into shares, obligations, or other securities of the  
37 31 surviving party or any other corporation or limited liability  
37 32 company or into cash or other property are converted, and the  
37 33 former holders of the shares are entitled only to the rights  
37 34 provided in the articles of merger or to their rights under  
37 35 section 524.1406.

38 1 Sec. 71. Section 524.1408, Code 2003, is amended to read  
38 2 as follows:

38 3 524.1408 MERGER OF CORPORATION OR LIMITED LIABILITY  
38 4 COMPANY SUBSTANTIALLY OWNED BY A STATE BANK.

38 5 A state bank owning at least ninety percent of the  
38 6 outstanding shares, of each class, of another corporation or  
38 7 limited liability company which it is authorized to own under  
38 8 this chapter, may merge the other corporation or limited  
38 9 liability company into itself without approval by a vote of  
38 10 the shareholders of either the state bank or the subsidiary  
38 11 corporation or limited liability company. The board of  
38 12 directors of the state bank shall approve a plan of merger,  
38 13 mail to shareholders of record of the subsidiary corporation  
38 14 or holders of membership interests in the subsidiary limited  
38 15 company, and prepare and execute articles of merger in the  
38 16 manner provided for in section 490.1105. The articles of  
38 17 merger, together with the applicable filing and recording  
38 18 fees, shall be delivered to the superintendent who shall, if  
38 19 the superintendent approves of the proposed merger and if the  
38 20 superintendent finds the articles of merger satisfy the  
38 21 requirements of this section, deliver them to the secretary of  
38 22 state for filing and recording in the secretary of state's  
38 23 office, and they shall be filed in the office of the county  
38 24 recorder. The secretary of state upon filing the articles of  
38 25 merger shall issue a certificate of merger and send the  
38 26 certificate to the state bank and a copy of it to the  
38 27 superintendent.

38 28 Sec. 72. Section 524.1802, subsection 1, Code 2003, is  
38 29 amended by adding the following new paragraph:

38 30 NEW PARAGRAPH. gg. "Incorporated in any state" means a  
38 31 limited liability company organized as a state bank under this  
38 32 chapter and a limited liability company organized as a state  
38 33 bank under the laws of any state as defined in 12 U.S.C. }  
38 34 1813(a)(3).

38 35 Sec. 73. Section 524.2001, Code 2003, is amended to read  
39 1 as follows:

39 2 524.2001 APPLICABILITY OF OTHER CHAPTERS.

39 3 Chapters 490, 490A, 491, 492, and 493 do not apply to banks  
39 4 except as provided by this chapter.

39 5 DIVISION IV  
39 6 REAL PROPERTY LOANS

39 7 Sec. 74. Section 535.8, subsection 2, paragraph b,  
39 8 unnumbered paragraph 2, Code 2003, is amended to read as  
39 9 follows:

39 10 The lender shall not charge the borrower for the cost of  
39 11 revenue stamps or real estate commissions which are paid by  
39 12 the seller.

39 13 PARAGRAPH DIVIDED. ~~Collection~~ The collection of any cost  
39 14 costs other than as expressly permitted by this ~~lettered~~  
39 15 paragraph "b" is prohibited. However, additional costs  
39 16 incurred in connection with a loan under this paragraph "b",  
39 17 if bona fide and reasonable, may be collected by a state-  
39 18 chartered financial institution licensed under chapter 524,  
39 19 533, or 534, to the extent permitted under applicable federal  
39 20 law as determined by the office of the comptroller of the  
39 21 currency of the United States department of treasury, the

39 22 national credit union association, or the office of thrift  
39 23 supervision of the United States department of treasury. Such  
39 24 costs shall apply only to the same type of state chartered  
39 25 entity as the federally chartered entity affected and shall  
39 26 apply to and may be collected by an insurer organized under  
39 27 chapter 508 or 515, or otherwise authorized to conduct the  
39 28 business of insurance in this state.

39 29 Nothing in this section shall be construed to change the  
39 30 prohibition against the sale of title insurance or sale of  
39 31 insurance against loss or damage by reason of defective title  
39 32 or encumbrances as provided in section 515.48, subsection 10.

39 33 DIVISION V

39 34 REAL PROPERTY FINANCIAL LIABILITY

39 35 Sec. 75. NEW SECTION. 455B.751 DEFINITIONS.

40 1 As used in this division, unless the context otherwise  
40 2 requires:

40 3 1. "Acquired" means purchased, leased, obtained by  
40 4 inheritance or descent and distribution, or obtained by  
40 5 foreclosure sale under chapter 654, nonjudicial voluntary  
40 6 foreclosure under section 654.18, deed in lieu of foreclosure  
40 7 under section 654.19, foreclosure without redemption under  
40 8 section 654.20, or nonjudicial foreclosure of nonagriculture  
40 9 mortgages under chapter 655A.

40 10 2. "Hazardous substance" means the same as defined in  
40 11 section 455B.381 or 455B.411.

40 12 3. "Hazardous waste" means the same as defined in section  
40 13 455B.411.

40 14 4. "Potentially responsible party" means a person whose  
40 15 acts or omissions were a proximate cause of the contamination  
40 16 of the acquired property, or a person whose negligent acts or  
40 17 omissions are a proximate cause of injury or damages resulting  
40 18 from exposure to such contamination. Injury or damages to  
40 19 persons or property arising by reason of contamination that  
40 20 migrates from the acquired property shall not be deemed to be  
40 21 caused by an act or omission of the person that acquired the  
40 22 property, except to the extent that the act or omission of  
40 23 such person exacerbated the release of such contamination.

40 24 5. "Regulated substance" means the same as defined in  
40 25 section 455B.471.

40 26 6. "Response action" means any action taken to reduce,  
40 27 minimize, eliminate, clean up, control, assess, or monitor a  
40 28 release of hazardous substances, hazardous waste, or regulated  
40 29 substances to protect the public health, safety, or the  
40 30 environment.

40 31 7. "Third party" means any person other than a person that  
40 32 holds indicia of title to property as identified in section  
40 33 455B.752, subsection 1, or that has acquired property as  
40 34 identified in section 455B.752, subsection 2.

40 35 8. "Third-party liability" means any liability or  
41 1 obligation, other than contractual obligations that  
41 2 specifically waive all or part of the immunity provided by  
41 3 section 455B.752, arising out of or resulting from  
41 4 contamination of property by a hazardous substance, hazardous  
41 5 waste, or a regulated substance, including without limitation,  
41 6 claims for illness, personal injury, death, consequential  
41 7 damages, exemplary damages, lost profits, trespass, loss of  
41 8 use of property, loss of rental value, reduction in property  
41 9 value, property damages, or statutory or common law nuisance.

41 10 Sec. 76. NEW SECTION. 455B.752 IMMUNITY FROM THIRD-PARTY  
41 11 LIABILITY.

41 12 A person that holds indicia of ownership of property  
41 13 contaminated by a hazardous substance, hazardous waste, or  
41 14 regulated substance, and that satisfies all of the conditions  
41 15 provided in section 455B.381, subsection 7, paragraphs "a",  
41 16 "b", and "c", or section 455B.471, subsection 6, paragraph  
41 17 "b", subparagraphs (1), (2), and (3), or a person that has  
41 18 acquired property contaminated by a hazardous substance,  
41 19 hazardous waste, or regulated substance, shall not be liable  
41 20 to any third party for any third-party liability arising from  
41 21 such contamination provided that all of the following apply:

41 22 1. The person does not knowingly cause or permit a new or  
41 23 additional hazardous substance, hazardous waste, or regulated  
41 24 substance to arise on or from the acquired property that  
41 25 injures a third party or contaminates property owned or leased  
41 26 by a third party.

41 27 2. The person is not a potentially responsible party or  
41 28 affiliated with any potentially responsible party by reason of  
41 29 any of the following:

41 30 a. Any direct or indirect familial relationship.

41 31 b. Any contractual, corporate, or financial relationship,  
41 32 other than a contractual, corporate, or financial relationship

41 33 that is created by the instruments by which title to the  
41 34 property is conveyed or financed or by a contract for the sale  
41 35 of goods or services.

42 1 c. A reorganization of a business entity that is or was a  
42 2 potentially responsible party.

42 3 Sec. 77. NEW SECTION. 455B.753 ACCESS TO PROPERTY.

42 4 A person that holds indicia of title to property or a  
42 5 person that has acquired property as identified in section  
42 6 455B.752, shall provide reasonable access to the acquired  
42 7 property to any potentially responsible party or to any  
42 8 authorized regulatory authority for the purpose of  
42 9 investigating or evaluating any contamination, planning, or  
42 10 preparing a remedial plan for any abatement of the  
42 11 contamination, and for any required remediation.

42 12 Sec. 78. NEW SECTION. 455B.754 LEGAL RESPONSIBILITY.

42 13 This division shall not be interpreted to affect the legal  
42 14 responsibility to the state to conduct response actions under  
42 15 any applicable state law. This division shall not be  
42 16 interpreted to affect or provide immunity from any criminal  
42 17 liability.

42 18 Sec. 79. EFFECTIVE DATE. This division of this Act, being  
42 19 deemed of immediate importance, takes effect upon enactment.

42 20 HF 2484

42 21 kk/es/25